IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 42 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SHIRISHCHANDRA N TRIVEDI

Versus

STATE OF GUJARAT

Appearance:

MR TS NANAVATI for Petitioner

MR BY MANKAD APP for Respondent No. 1

MR VH DESAI for Respondent No. 2

CORAM : MR.JUSTICE H.H.MEHTA

Date of decision: 12/12/2000

ORAL JUDGEMENT

Original complainant of Criminal Case No.3486 of 1991 which was pending on the file of the learned Judicial Magistrate, First Class (First Court), Surat (who will be referred to hereinafter as the learned

Magistrate for the sake of brevity), has, by filing this present Criminal Revision Application under Sec. 397 of the Criminal Procedure Code, 1973 (for short "Cr.P.C."), challenged the correctness, legality and propriety of order and judgment Ex.8 rendered by the learned Magistrate on 30th September, 1992 in aforesaid Criminal Case No. 3482 of 1991.

2. When this Criminal Revision Application was taken up for final hearing, the learned advocates for both the parties jointly submitted to this Court that the judgment challenged in this Criminal Revision Application be set aside and case be remanded back to the learned Magistrate with suitable directions to the learned Magistrate.

3. I have heard the learned advocates for both the parties, and I have gone through the impugned judgment Ex.8 rendered by the learned Magistrate, and on going through the grounds stated in memo of this Criminal Revision Application, this Court is of the view that this is a fit case in which the impugned judgment is required to be set aside and Criminal Case No. 3486 of 1991 is required to be remanded back to the learned Magistrate, with suitable directions to the learned Magistrate.

4. In view of what is stated hereinabove, this Criminal Revision Application is allowed. The judgment Ex.8 dated 30th September, 1992 rendered in Criminal Case No. 3486 of 1991 which was pending on the file of the learned Magistrate is set aside and Criminal Case No. 3486 of 1991 is remanded back to the trial Court with the following directions-

(i) The learned Magistrate is directed to permit the prosecution to examine all the witnesses which are still remained to be examined by the prosecution during the trial with the further liberty granted to the accused to cross-examine them, and then decide the case in accordance with the law strictly on merit without being influenced by the order of this Court after affording full opportunity of being heard to both the parties including complainant.

(ii) As this case is of the year 1991, the learned Magistrate is directed to dispose of the said case as expeditiously as possible, preferably within six months from the date of receipt of writ of this Court.

Rule is made absolute to the aforesaid extent

only.

Date: 12/12/2000. (H.H.MEHTA,J.)
ccshah